IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN
PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION No.16899 of 2007

Between:
Pulagam Lakshmi and 9 others

..... PETITIONERS

AND
State of Andhra Pradesh,
Re.p by its Principal Secretary,
Revenue Department, Secretariat,
Hyderabad and 3 others

.....RESPONDENTS

WRIT PETITION No.17823 of 2007

Between:
Tetali Prasada Reddy and 9 others

..... PETITIONERS

AND
State of Andhra Pradesh,
Re.p by its Principal Secretary,
Revenue Department, Secretariat,
Hyderabad and 3 others

.....RESPONDENTS

WRIT PETITION No.17793 of 2007

Between:
Tetali Sura Reddy and 12 others

..... PETITIONERS

AND
State of Andhra Pradesh,
Re.p by its Principal Secretary,

Revenue Department, Secretariat,
Hyderabad and 3 others

.....RESPONDENTS

WRIT PETITION No.17228 of 2007

Between:
ITC Limited, a Factory at Anaparthi as
Part of its Division,
Rep.by its Factory Accountant
Mr.T.Madhusudhana Rao

..... PETITIONER

AND
The Collector and District Magistrate
East Godavari District
Kakinada and 2 others

.....RESPONDENTS

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION Nos.16899, 17823, 17793 and 17228 of 2007

COMMON ORDER:

These four writ petitions are filed by the petitioners who are the owners of the lands, whose lands are sought to be acquired under the provisions of the Land Acquisition Act for the construction of a Railway Over Bridge at Anaparthi village.

Notification was issued under Section 4(1) of the Land Acquisition Act on 07.04.2007 and thereafter they were published in the newspapers. Since 5-A enquiry was not dispensed with, the landowners were given notice under Sec.5-A of the Land Acquisition Act, inviting their objections to be filed. After receiving the objections, date was also fixed in the same notice that was served on the petitioners, fixing the date of hearing with reference to the objections of the petitioners by the Land Acquisition Officer-cum-Revenue Divisional Officer.

The grievance of the petitioners is that though 11.06.2007 was fixed as date of hearing with reference to the objections of the petitioners, the Land Acquisition Officer-cum-Revenue Divisional Officer was not available in his office on that day and some of the petitioners were specific that they have waited till evening, but the Land Acquisition Officer-cum-Revenue Divisional Officer did not turn up to the office,

therefore, they were not heard. But, however, subsequently, an order was passed under Sec.5-A of the Land Acquisition Act, concluding the enquiry and rejecting the objections without even hearing the petitioners. Therefore, the present writ petitions are filed and sought to quash the order passed under Sec.5-A as well as other acquisition proceedings.

In view of the above objections, the Government Pleader was directed to get instructions and on instructions, it is represented that the Land Acquisition Officer-cum-Revenue Divisional Officer was available in the office from 12.30 PM onwards and even heard some of the objectors, therefore, it was not proper and just to claim that the Land Acquisition Officer-cum-Revenue Divisional Officer was not available at the office on that day through out.

In any case, when the Land Acquisition Officer-cum-Revenue Divisional Officer has issued notices, fixing up the date and time of hearing as 11.06.2007 at 11 AM, he is expected to be present in his office and if he is not present at that time, it would be difficult for the petitioners to presume that he may turn up after one or two hours to hear the objections. In fact, it was asserted by the counsel for the petitioner in W.P.17228 of 2007 that the Factory Accountant of the writ petitioner company has waited till 1 P.M. and he was informed that the Land Acquisition Officer-cum-Revenue Divisional Officer would not turn up till evening, since he was busy in other engagements. Therefore, he left in the office of the Land Acquisition Officer. A letter, showing his presence as well as absence of the Land Acquisition Officer-cum-Revenue Divisional Officer, which was even acknowledged by the office of the Land Acquisition Officer is filed.

In any case, without going into the merits of the rival contentions, since the grievance of the petitioners is that they were not heard by the Land Acquisition Officer-cum-Revenue Divisional Officer before

concluding Sec.5-A enquiry, it would be proper and appropriate to direct the Land Acquisition Officer-cum-Revenue Divisional Officer to hear the petitioners before considering the objections raised by them for the proposed acquisition. Accordingly, the orders passed by the Land Acquisition Officer-cum-Revenue Divisional Officer under Sec.5-A are set aside.

At the time of hearing, it is represented that declaration under Sec.6 was issued on 27.07.2007 in view of the orders passed under Sec.5-A and even notices under Sec.9(3) were served on the petitioners. Since this Court set aside the order of the Land Acquisition Officer-cum-Revenue Divisional Officer passed under Sec.5-A, in order to give an opportunity of hearing the petitioners, the consequential proceedings of notification under Sec.6 as well as the notices under Sec.9(3) are set aside.

Since advance notices have already been given to the petitioners with reference to the objections which are already filed, therefore, in order to give the petitioners an opportunity of being heard, and in order to save the time, all the petitioners are directed to be present before the Land Acquisition Officer-cum-Revenue Divisional Officer on 17.09.2007 at 11 AM, on which date, the Land Acquisition Officer-cum-Revenue Divisional Officer is directed to hear the petitioners who are the objectors, under Sec.5-A, and pass appropriate orders after hearing the petitioners. It is made clear that if the hearing is not completed on 17.09.2007, since there are many objectors, the Land Acquisition Officer-cum-Revenue Divisional Officer is directed to continue the hearing on the next day also in order to complete the hearing of the objections, and thereafter pass appropriate orders. It is further made clear that none of the petitioners would be served with any notice, since the Advocates appearing for the petitioners have represented before this Court that no further notices are required, therefore, it is for them to

appear before the Land Acquisition Officer-cum-Revenue Divisional Officer in order to avail the opportunity of personal hearing.

These Writ Petitions are, accordingly, disposed of. No order as to costs.

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S.ANANDA REDDY.J

Dated:10.09.2007
Dsr

Note:
Issue Copy in two days
B/o
Dsr